

REMARKS

STATUS OF THE CLAIMS

Claims 1-11 are pending in the application. Amendments have been made to claim 1. These amendments are not for reasons related to patentability, but rather incorporate the Examiner's suggested amendments to further define the relationship of the various elements of the invention and thereby further prosecution of this application. Specifically, Applicant has amended claim 1 to further define the structure of the mating channel and the cover flange and thus, further distinguish the present invention from the cited references. Claim 1 has been amended solely to advance the prosecution of this case; the amendments are not necessary for meeting the requirements of patentability. Particular support for this amendment is to be found in the last two sentences of paragraph 15 and FIG. 2 directly shows each of the recited elements and the relationships thereof. Claims 5 and 6 have been newly added to further define the lockband. Support for newly added claims 5 and 6 is to be found, at least, in paragraph 19. Claim 7 has been added in accordance with the Examiner's indication that claim 2 would have been allowable if rewritten in independent format. Therefore, claim 7 includes the elements of previously amended claims 1 and 2. Claims 8-11 correspond to claims 3-6. Accordingly, no new matter has been added by this amendment and no estoppels are intended thereby.

Allowance for this matter is earnestly solicited. In addition, it is respectfully requested that this amendment and response be considered.

REJECTIONS UNDER 35 U.S.C. § 103(a) (U.S. Patent No. 4,177,934 to Theo Hammes et al. and U.S. Patent No. 5,823,340 to Willi Maihofer)

Claims 1 and 4 stand rejected under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent No. 4,177,934 to Theo Hammes et al. (Hereinafter, the "Hammes et al. document") in view of U.S. Patent No. 5,823,340 to Willi Maihofer (Hereinafter, the "Maihofer document"). Firstly, the Examiner is thanked for her exemplary assistance during telephonic Examiner Interviews on April 21, 2005 in which the Examiner provided amendments to claim 1 that appear to overcome the currently cited references. The Applicant respectfully submits that it is believed that the amendments submitted herein to claim 1 resolves the foregoing rejection. Claim 4 depends from independent claim 1. Therefore, reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejection to claims 1 and 4 as being anticipated by the Hammes et al. document in view of the Maihofer document is respectfully requested in light of the amendments submitted herein and the following comments.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge already available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claimed limitations. See MPEP § 2143.

A *prima facie* case of obviousness has not been made in that the Hammes et al. document and the Maihofer document, alone and in combination, fail to teach or suggest the invention as recited in claims 1 and 4 of the present application.

Without conceding the propriety of the rejections, the remaining pending independent claim 1 has been amended to more particularly recite various aspects of the invention recited therein. The claim now further defines structural relationships and operation of the lockband, drum flange, cover flange, outer wall, base surface, and upper chine. In this regard, claim 1 recites, *inter alia*, wherein tightening said lockband upon said drum flange and said cover flange, downwardly draws said plastic lid and radially inwardly compressed said outer wall to cause said concave base surface to be pressed against said convex upper chine with sufficient pressure to causes said concave base surface to directly engage said convex chine in a sealing relationship.

This interaction of features as claimed are not taught in the art of record, including Hammes et al. document and the Maihofer document. For example, the Hammes et al. document is directed to lid with an annular recess to receive a sealing ring and a container with a neck portion having a corrugated upper surface to engage the sealing ring and prevent leakage. *See FIG. 1, Column 4 lines 30-35, and claim 4.* As such, the lid and container do not *directly* engage one another in a sealing arrangement. The Maihofer document does not overcome the deficiencies of the Hammes et al. document, but rather, is directed to a container device having gasket that resides in an annular groove let into an outer receptacle flange. *See Column 4 lines 53-57 and FIG. 8 item 18.* Therefore, neither the Hammes et al. document nor the Maihofer document, taken singly or in combination, teach or disclose radially inwardly compressing an outer wall to cause a concave base surface to be pressed against a convex upper chine with sufficient pressure to causes the concave base surface to directly engage said convex chine in a sealing relationship. Claim 4 depends from independent claim 1. Therefore, withdrawal of the 35 U.S.C. § 103(a) rejection of claims 1 and 4 as being anticipated by the Hammes et al. document in view of the Maihofer document is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 103(a) (the Hammes et al. document in view of the Maihofer document in further view of U.S. Patent No. 5,573,118 to Harley L. Cramer et al.)

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being anticipated by the Hammes et al. document in view of the Maihofer document and further in view of U.S. Patent No. 5,573,118 to Harley L. Cramer et al. (Hereinafter, the “Cramer et al. document”). The Applicant respectfully submits that as claim 3 depends from independent claim 1, it is therefore respectfully submitted that claim 3 is patentable for at least the same reasons as discussed with respect to claim 1. Therefore, withdrawal of the 35 U.S.C. § 103(a) rejection to claim 3 as being anticipated by the Maihofer document in view of the Cramer et al. document is respectfully requested.

ALLOWABLE SUBJECT MATTER

Applicant thanks the Examiner for the indication that claim 2 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In accordance with the Examiner’s suggestion, newly added claim 7 has been amended to include all of the limitations of claims 1 and 2 and newly added claims 8 and 9 correspond to claims 3 and 4.

CONCLUSION

It is respectfully submitted that the application is now in condition for allowance. If it is believed that any further issue exists, the Examiner is invited to contact the undersigned agent by telephone if it is believed that such contact will expedite the prosecution of the application.

In the event this response is not timely received or an extension is required, the Applicant petitions for an appropriate extension of time. Any additional fees may be charged to or overpayment credited to Deposit Account No. 50-2036.

Respectfully submitted,

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